

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17983
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On March 17, 2004, the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing additional individual income tax, penalty, and interest in the amount of \$812 for the year ending December 31, 2000.

The taxpayer filed a timely appeal and petition for redetermination. He did not request a conference. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision based thereon.

Idaho Code § 63-3002 provides:

Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; . . .

The intent of the Idaho Legislature is to follow the federal determination subject only to modifications contained in Idaho law. [Redacted]

Because the audit resulted in additional income tax, the Bureau issued a Notice of Deficiency Determination, which the taxpayer appealed. The taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. He did not respond to a letter from the Legal/Tax Policy Division that outlined his appeal rights.

[Redacted] In his letter of protest, the taxpayer did not dispute the audit findings. He said the unreported income was the result of not receiving a form from [Redacted] identifying interest on a government bond. The taxpayer appealed the application of penalty and interest:

. . . It has been four years from the original tax year and two years from the IRS bill. I would hope that in this age of the computer transactions between agencies would occur at a much faster rate. In the two years the interest continues to grow. . .

[Redacted] Idaho Code § 63-3069(1) states:

Notice of adjustment of federal or state tax liability. (1) Upon final determination of any deficiency or refund of federal taxes written notice shall be immediately sent to the state tax commission by the taxpayer. (Emphasis added.)

Idaho law requires a taxpayer to notify the Tax Commission of any changes by the IRS that adjust the income tax due. [Redacted]The Idaho Supreme Court heard Union Pacific Railroad Company v. State Tax Commission, 105 Idaho 471, 670 p.2d 878 (1983). In this case there was a substantial delay in resolving the taxpayer's liability. In addressing whether the taxpayer was required to pay interest, the Court stated:

The general rule is that absent statutory authorization, courts have no power to remit interest imposed by statute on a tax deficiency. American Airlines, Inc. v. City of St Louis, 368 S.W.2d 161 (Mo. 1963); see generally 85 C.J.S. Taxation, 1031(c) (1954). We agree with the State that I.C. 63-3045(c) is clear and unequivocal when it states that 'interest . . . shall be assessed' and 'shall be collected.' This section is not discretionary, but rather, it is mandatory.

Following the language of this section we hold that this Court, as well as the district court, lacks any power to remit the interest that is mandated by the statute.

Interest imposed under Idaho Code § 63-3045 is a mandatory charge. The charge is calculated from the due date of the return at a rate that is established by the legislature each year. Interest charged in the Notice of Deficiency Determination must be upheld.

The Bureau asserted a negligence penalty pursuant to Idaho Code § 63-3046, which provides for a penalty to be assessed, collected, and paid for negligence or disregard of rules without the intent to defraud.

The Bureau properly imposed the delinquency penalty as provided by Idaho law. However, Idaho Code § 63-3047 allows the Tax Commission to compromise penalty: “The state tax commission or its delegate may compromise any penalty arising under the provisions of this act instead of commencing suit thereon . . .”

The Tax Commission amends the deficiency determination to reflect a compromise of the penalty.

WHEREFORE, the Notice of Deficiency Determination dated March 17, 2004, is hereby MODIFIED, and, as so modified, is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pays the following tax and interest for 2000:

<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$650	\$-0-	\$130	\$780
		TOTAL PAID	<u>812</u>
		REFUND	<u>\$ 32</u>

The taxpayer has fully paid the total tax, penalty, and interest. Therefore, no demand for payment is made. The \$32 penalty will be refunded to the taxpayer.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]
[Redacted]
[Redacted]

Receipt No.